

EXHIBIT #41
TO
DEYOUNG DECLARATION



United States Attorney
Southern District of New York

86 Chambers Street
New York, New York 10007

December 28, 2007

**BY FIRST CLASS MAIL
AND FACSIMILE**

Kyle M. DeYoung, Esq.
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Re: Amnesty Int'l USA, et al. v. CIA, et al.
07 Civ. 5435 (LAP)

Dear Mr. DeYoung:

We write, following our conversation of December 14, 2007, to confirm, first, that the Department of Homeland Security ("DHS") is processing documents relating to its November 30, 2007 summary judgment motion, and, second, that DHS will include details regarding these documents in its February 4, 2008 opposition brief.

First, DHS is presently processing certain documents with respect to the FOIA request, dated April 25, 2006, from Plaintiffs Amnesty International USA and Washington Square Legal Services, Inc., that is captioned "Request Submitted Under the Freedom of Information Act for Records Concerning Detainees, including 'Ghost Detainees/Prisoners,' 'Unregistered Detainees/Prisoners,' and 'CIA Detainees/Prisoners'" (the "Ghost Detainee Request"). On November 30, 2007, DHS filed a motion for summary judgment dismissing Plaintiffs' claims against it relating to the Ghost Detainee Request. Thereafter, in collecting and processing documents potentially responsive to Plaintiffs' other FOIA request, DHS discovered a small number of documents – including, *inter alia*, newspaper articles and reports by non-governmental organizations – which come within the scope of the Ghost Detainee Request. DHS intends to complete the processing of these documents, excluding any documents referred to other agencies, by mid-January 2008.

Second, the parties agreed during the December 14 conversation that DHS will include details about the discovery of these documents and any asserted exemptions in its February 4, 2008 opposition brief. Plaintiffs' reply brief is presently due on February 15, 2008. In our December 14 conversation, the parties agreed that, if, upon reviewing DHS's February 4, 2008

submission, Plaintiffs decide to raise any challenge relating to the newly discovered documents, DHS would consent to a two-week extension of time for Plaintiffs to serve their reply. If your understanding of these agreements differs from those outlined in this paragraph, please contact us immediately.

Sincerely,

MICHAEL J. GARCIA
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